

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 2337

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**Introduced by Assembly Member Burke**

February 18, 2016

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An act to amend Section 230.1 of the Labor Code, relating to employment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2337, as amended, Burke. Employment ~~protections~~. *protections: victims of domestic violence, sexual assault, or stalking.*

Existing law prohibits an employer with 25 or more employees from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work for specified ~~reasons~~ *purposes* related to *addressing* the domestic violence, sexual assault, or stalking. *Existing law provides that any employee who is discharged, threatened with discharge, demoted, suspended, or in any manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for those purposes is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief, and is allowed to file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations.*

This bill would ~~make nonsubstantive changes to this provision~~. *require employers to inform each employee of his or her rights established under those laws by providing that information in writing to new employees upon hire and to other employees upon request.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 230.1 of the Labor Code is amended to  
2     read:  
3     230.1. (a) In addition to the requirements and prohibitions  
4     imposed on employees pursuant to Section 230, an employer with  
5     25 or more employees shall not discharge, or in any manner  
6     discriminate or retaliate against, an employee who is a victim of  
7     domestic violence, sexual assault, or stalking for taking time off  
8     from work for any of the following purposes:  
9     (1) To seek medical attention for injuries caused by domestic  
10    violence, sexual assault, or stalking.  
11    (2) To obtain services from a domestic violence shelter,  
12    program, or rape crisis center as a result of domestic violence,  
13    sexual assault, or stalking.  
14    (3) To obtain psychological counseling related to an experience  
15    of domestic violence, sexual assault, or stalking.  
16    (4) To participate in safety planning and take other actions to  
17    increase safety from future domestic violence, sexual assault, or  
18    stalking, including temporary or permanent relocation.  
19    (b) (1) As a condition of taking time off for a purpose set forth  
20    in subdivision (a), the employee shall give the employer reasonable  
21    advance notice of the employee's intention to take time off, unless  
22    the advance notice is not feasible.  
23    (2) When an unscheduled absence occurs, the employer shall  
24    not take any action against the employee if the employee, within  
25    a reasonable time after the absence, provides a certification to the  
26    employer. Certification shall be sufficient in the form of any of  
27    the categories described in paragraph (2) of subdivision (d) of  
28    Section 230.  
29    (3) To the extent allowed by law and consistent with  
30    subparagraph (D) of paragraph (7) of subdivision (f) of Section  
31    230, employers shall maintain the confidentiality of any employee  
32    requesting leave under subdivision (a).  
33    (c) An employee who is discharged, threatened with discharge,  
34    demoted, suspended, or in any other manner discriminated or  
35    retaliated against in the terms and conditions of employment by

1 his or her employer because the employee has taken time off for  
2 a purpose set forth in subdivision (a) is entitled to reinstatement  
3 and reimbursement for lost wages and work benefits caused by  
4 the acts of the employer, as well as appropriate equitable relief.

5 An employer who willfully refuses to rehire, promote, or otherwise  
6 restore an employee or former employee who has been determined  
7 to be eligible for rehiring or promotion by a grievance procedure  
8 or hearing authorized by law is guilty of a misdemeanor.

9 (d) (1) An employee who is discharged, threatened with  
10 discharge, demoted, suspended, or in any other manner  
11 discriminated or retaliated against in the terms and conditions of  
12 employment by his or her employer because the employee has  
13 exercised his or her rights as set forth in subdivision (a) may file  
14 a complaint with the Division of Labor Standards Enforcement of  
15 the Department of Industrial Relations pursuant to Section 98.7.

16 (2) Notwithstanding any time limitation in Section 98.7, an  
17 employee may file a complaint with the division based upon a  
18 violation of subdivision (a) within one year from the date of  
19 occurrence of the violation.

20 (e) An employee may use vacation, personal leave, or  
21 compensatory time off that is otherwise available to the employee  
22 under the applicable terms of employment, unless otherwise  
23 provided by a collective bargaining agreement, for time taken off  
24 for a purpose specified in subdivision (a). The entitlement of any  
25 employee under this section shall not be diminished by any term  
26 or condition of a collective bargaining agreement.

27 (f) This section does not create a right for an employee to take  
28 unpaid leave that exceeds the unpaid leave time allowed under, or  
29 is in addition to the unpaid leave time permitted by, the federal  
30 Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et  
31 seq.).

32 (g) For purposes of this section:

33 (1) "Domestic violence" means any of the types of abuse set  
34 forth in Section 6211 of the Family Code, as amended.

35 (2) "Sexual assault" means any of the crimes set forth in Section  
36 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269,  
37 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code,  
38 as amended.

39 (3) "Stalking" means a crime set forth in Section 646.9 of the  
40 Penal Code or Section 1708.7 of the Civil Code.

- 1     *(h) Employers shall inform each employee of his or her rights*
- 2     *established under this section by providing that information in*
- 3     *writing to new employees upon hire and to other employees upon*
- 4     *request.*